APPENDIX A

Rules 10 and 35 of California Rules of Court

Rule 10. Transmission and Filing of Record

(a) [Filing and payment of fee] When the record on appeal has been completed in accordance with these rules the clerk shall forthwith transmit any original transcripts or agreed or settled statements to the reviewing court. When these are received the clerk of the reviewing court shall notify the appellant that the filing fee shall be paid within 20 days from the date of mailing such notice, and on such payment the record shall be filed. After the expiration of such 20-day period the clerk shall not permit the filing of the record except by direction of the Chief Justice or Presiding Justice. If the appellant shall fail to perform any act necessary to procure the filing of the record or to pay the filing fee within the time allowed therefor or within any valid extension of that time, and such failure is the fault of the appellant and not of any court officer or any other party, the appeal may be dismissed on motion of the respondent or on the reviewing court's own motion.

(b) [Transmission of exhibits] When the parties shall have been notified by the clerk of the reviewing court that an appeal has been set for hearing, each party shall file with the clerk of the superior court a notice specifying such of the original exhibits or affidavits designated by any party for inclusion in the record, as he desires transmitted to the reviewing court, and the clerk shall immediately transmit them to the reviewing court. The clerk of the superior court shall arrange and list them, and two duplicates of such list shall be forwarded with them. If the list is found correct, one duplicate shall be signed by the clerk of the reviewing court and returned to the clerk of the superior court. If any papers are illegible or otherwise unusable, the reviewing court may require that copies be

made and filed. The reviewing court at any time may order that any original exhibits or affidavits designated by the parties as a part of the record be transmitted to it by the clerk of the superior court. The reviewing court on application may order that original exhibits or affidavits be sent to the superior court for use in any other proceeding, and on the issuance of the remittitur, they shall be returned to the superior court.

(c) [Use of copies] The additional copy of the record required by these rules shall be made available for the use of the parties to the appeal in such manner as the judge, or the clerk under his direction, shall prescribe; provided that the parties may stipulate to its use, and in such event only the original need be filed with the clerk of the superior court.

Rule 35. Preparation, Certification and Filing of Record

(a) [Clerk's transcript] On the filing of the notice of appeal the clerk shall prepare an original and two clearly legible typewritten copies of the clerk's transcripts, in the manner and form required by rule 9, and shall append to the original and each copy a certificate that it is correct. An additional copy of the transcript shall be prepared for the district attorney when a judgment of death has been rendered against any defendant or upon the request of the district attorney. When there is more than one appealing defendant in a case in which a judgment of death has been rendered against one or more of the defendants, the clerk shall prepare an additional copy of the transcript for each such additional defendant. As amended, effective Jan. 1, 1959; Jan. 1, 1961.

(b) [Reporter's transcript] Where a reporter's transcript is required, the clerk, immediately on the filing of the notice of appeal, shall notify the reporter. The reporter shall prepare an original and the same number of

clearly legible typewritten copies of the reporter's transcript as are required of the clerk's transcript by subdivision (a) of this rule, in the manner and form required by rule 9, and shall append to the original and each copy a certificate that it is correct. He shall deliver the original and all the copies to the clerk immediately on their completion, and in no case more than 20 days after the filing of the notice of appeal, unless such time is extended as provided in subdivision (d) of this rule. As amended, effective Jan. 1, 1959.

(c) [Certification] As soon as both the clerk's and reporter's transcripts are completed, the clerk shall deliver one copy to the defendant or his attorney and one copy to the district attorney, and note the dates of such deliveries on the original. When there are two or more appealing defendants in a case in which a judgment of death has been rendered against one or more of the defendants, the clerk shall deliver a copy of both transcripts to each such defendant or his attorney. Promptly thereafter, and in no case longer than 25 days after the filing of the notice of appeal, unless an extension is granted pursuant to subdivision (d) of this rule, the clerk shall deliver the original transcripts to the judge for his approval. Unless a proposed correction is served and filed within five days after the delivery of the original transcripts to the judge, the judge shall certify on the original that no objection was made thereto within the time allowed by law, and shall immediately redeliver the transcripts to the clerk. If a proposed correction is filed, the judge shall promptly determine the matter. After corrections have been made, the judge shall certify that all objections made thereto have been determined, and that the transcripts have been corrected in accordance with such determination, and shall redeliver the transcripts to the clerk. Where there are two or more appealing defendants represented by separate counsel in a case in which judgment of death has not been rendered against any defendant, the appellant's copy shall be made

available for the use of the appellants in the manner provided in rule 10. As amended, effective Jan. 1, 1959.

(d) [Extensions of time] The periods allowed by this rule for preparation of the record shall not be extended by the superior court, but on affidavit showing good cause, the reviewing court may extend time for not exceeding 60 days in the aggregate.

(e) [Transmission] Promptly on receipt of the record properly certified by the judge, the clerk shall transmit the original transcripts to the clerk of the reviewing court. He shall also transmit to the Attorney General a copy of each transcript corrected to conform to the original. Unless a judgment of death has been rendered against any defendant or the district attorney has requested a copy of each transcript for his permanent use, the district attorney shall deliver to the clerk the copy of each transcript furnished the district attorney under subdivision (c) of this rule. The date of transmission of copies to the Attorney General shall be noted on the original transcripts by the clerk of the superior court. All exhibits admitted in evidence or rejected which are made part of the record on appeal by rule 34 or by order of the superior court pursuant to rule 33 shall be transmitted to the reviewing court as originals as provided in rule 10. If any exhibits were requested, but the superior court failed to make an order pursuant to such request, such exhibits shall be transmitted only on order of the reviewing court. As amended, effective Jan. 1, 1959; Jan. 1, 1961.

(f) [Stipulation for partial transcript] If counsel for both defendant and the People stipulate in writing before the preparation of the record is completed that any part of the record is not required for the proper hearing of the appeal, such part shall not be prepared or transmitted to the reviewing court.

APPENDIX B

Compilation of State Statutes and Rules Providing for Furnishing of Transcripts to Indigent Co-Defendants

The following table indicates those states in which the obligation to supply a transcript for the purpose of appeal to each indigent defendant in a felony case is recognized by statute or court rule, and those states (other than California) in which a transcript is required to be shared by co-defendants by statute, court rule or administrative interpretation. The table also reflects responses to a letter of inquiry sent to the Attorneys General of all such states requesting confirmation as to the manner in which their respective statutes or court rules are in fact administered with respect to the furnishing of individual transcripts to each indigent co-defendant on direct appeal. As of the date of filing this brief, replies had been received from 33 of the 50 states, of which 4 indicated they could not furnish the information requested.

State	Applicable Statute or Court Rule	Transcript Provided to Each Indigent Defendant Pursuant to Statute or Court Rule	Multiple Defendants Share Transcript Pursuant to Statute or Court Rule	Multiple Defendants Share Transcript as Matter of Administrative Practice	Unacc
ALABAMA	Ala. Code Title 15, § 380(20) (1958)	X			
ALASKA	Sup. Ct. 243(b) (1968)	X			
ARIZONA	Ariz. Rev. Stat. Ann. § 13-1714 R. Crim. Pro. 361(b)			X[2, 3]	
ARKANSAS	Ark. Stat. Ann. § 22-357 (1947)	X[1, 2, 12]			
COLORADO	None	X[1, 4]			
CONNECTICUT	Conn. Gen. Stat. Ann. § 54-151 (1967)	X			
DELAWARE	Sup. Ct. R. 10A (1959)	X[12]			
FLORIDA	Fla. Stat. Ann. §§ 924.15, 924.17, 924.23, 924.25	X[1, 4]			
GEORGIA	Ga. Code Ann. §§ 6-805, 6-811		X		
HAWAII	Hawaii Rev. Stat. § 705-5 (1967)	X[1]			

State	Applicable Statute or Court Rule	Transcript Provided to Each Indigent Defendant Pursuant to Statute or Court Rule	Multiple Defendants Share Transcript Pursuant to Statute or Court Rule	Multiple Defendants Share Transcript as Matter of Administrative Practice	Unsettled
...EO	None	X[5]			
...INOIS	Ill. Ann. Stat. § 110A-607 (1967)	X			
...IANA	Ind. Stat. Ann. § 4-7309 R. Sup. Ct. 2-40A (1963)	X[1]			
...A	Iowa Code Ann. § 793.8	X			
...NSAS	Kan. Stat. Ann. § 62-1304 (1968) § 60-2701, No. 6(M)	X[12]			
...TUCKY	Ky. Rev. Stat. § 453.190 R. Crim. Pro. 12.63, 12.66		X[1]		
...SIANA	La. Stat. Ann. § 13:4529 Code of Crim. Pro. act. 917[6] Sup. Ct. R. 1(6)	X[1]			
...E	R. Crim. Pro. 39A (1965)	X[1]			
...LAND	Md. Crim. Code R. 883(b), 1083(b) (1967)	X			

State	Applicable Statute or Court Rule	Transcript Provided to Each Indigent Defendant Pursuant to Statute or Court Rule	Multiple Defendants Share Transcript Pursuant to Statute or Court Rule	Multiple Defendants Share Transcript as Matter of Administrative Practice	Unsettled
MASSACHUSETTS	Mass. Ann. L. Ch. 278, §§ 33A-33H				X
MICHIGAN	Superior Ct. R. 785.4(2)	X			
MINNESOTA	Minn. Stat. Ann. §§ 611.07(3) (1965)	X[7, 12]			
MISSISSIPPI	Miss. Code Ann. § 1640(f)	X			
MISSOURI	Mo. Stat. Ann. § 485.100	X[1]			
MONTANA	Mont. Codes Tit. 95, Code of Crim. Pro. §§ 95-2428, 95-2429 (1968)	X[1]			
NEBRASKA	Neb. Rev. Stat. §§ 24-342, 29-2306, 29-2306.1 (1964)	X[1]			
NEVADA	Nev. Rev. Stat. § 177.345	X[8, 12]			
NEW HAMPSHIRE	N.H. Rev. Stat. Ann. 604-A:1-8 R. Ct. 63, 64	X[1]			

State	Applicable Statute or Court Rule	Transcript Provided to Each Indigent Defendant Pursuant to Statute or Court Rule	Multiple Defendants Share Transcript Pursuant to Statute or Court Rule	Multiple Defendants Share Transcript as Matter of Administrative Practice	Unsettled
JERSEY	N.J. Stat. Ann. §§ 2A:152-15, 2A:152-16, 2A:152-17	X[12]			
MEXICO	N.M. Stat. § 21-2-1(14) (1953)		X[1]		
YORK	N.Y. Code Crim. Pro. § 456 (1962)	X			
CAROLINA	N.C. Gen. Stat. § 15-4.1 (1965)			X[2, 12]	
DAKOTA	None				X[9]
	Ohio Rev. Code Ann. §§ 2301.24 2953.03 (1965)	X[12]			
OMA	Okla. Stat. Ann. Tit. 20, § 106.4(b)	X[12]			
	Ore. Rev. Stat. § 138.500(2), (3)	X[12]			
VANIA	Pa. Stat. Ann. 17 § 1802, § 1809, 42 § 1140	X[1]			
ISLAND	None				

State	Applicable Statute or Court Rule	Transcript Provided to Each Indigent Defendant Pursuant to Statute or Court Rule	Multiple Defendants Share Transcript Pursuant to Statute or Court Rule	Multiple Defendants Share Transcript as Matter of Administrative Practice
South Carolina	S.C. Code L. §§ 7-343, 15-1903 (1962)	X		
South Dakota	S.D. Code of 1939 1960 Supp. §§ 34.1901, 34.3903	X[12]		
Tennessee	Tenn. Code Ann. §§ 40-2037, 40-2040			
Texas	Tex. Code Crim. Pro. Art. 40.09 (5) (1967)	X		
Utah	Utah Code Ann. §§ 78-56-4, 78-56-9 (1957)	X[12]		
Vermont	Vt. Stat. Ann. Tit. 4, §§ 733, 737	X[12]		
Virginia	Va. Code § 17-30.1 (1968)	X[1]		
Washington	Wash. Rev. Code Ann. §§ 2.32.240, 10.01.112 (1965) Ct. R. 44, 46, 47	X[1, 12]		

State	Applicable Statute or Court Rule	Transcript Provided to Each Indigent Defendant Pursuant to Statute or Court Rule	Multiple Defendants Share Transcript Pursuant to Statute or Court Rule	Multiple Defendants Share Transcript as Matter of Administrative Practice	Unsettled
West Virginia	W. Va. Code § 51-7-7 (1965)	X			
Wisconsin	Wisc. Stat. Ann. § 256.57 (1967)				X[12]
Wyoming	Wyo. Stat. § 7-282.1 (1967) R. Civ. Pro. 1, 75(1)	X[1]			

[1] Confirmed by letter from Attorney General's office.
[2] Practice indicated by reply from Attorney General's office.
[3] Judge has discretion to award individual transcripts—Attorney General's letter.
[4] Unless joint appeal is taken—Attorney General's letter.
[5] There is no statute or court rule directly in point, but the Attorney General's office indicated that free individual transcripts are provided as a matter of practice.
[6] As interpreted by Op. Atty. Gen., June 14, 1965.
[7] In joint trials—Attorney General's letter.
[8] The post-conviction procedure provides for individual free transcripts, but no provision specifically relating to appeals was found.
[9] There is no applicable statutory provision. In response to our inquiry, the Attorney General's Office indicated that the issue of free transcripts to co-defendants has not yet been resolved.
[10] The statutory provisions seem to provide for individual copies of the trial transcript, but in response to a question whether each indigent defendant in a criminal case was permitted a transcript, the Attorney General indicated trial courts probably provide only one transcript, although the question has not been submitted to Tennessee's appellate courts.
[11] Transcript is sent to Warden of prison; no indication in statute or Attorney General's letter of practice absent incarceration.
[12] Some inquiry beyond the presence or absence of indigency is provided for before providing a transcript.

APPENDIX C

(See opposite) ☞

Appendix C

Statistics as to California
Criminal Cases Involving
Multiple Defendants

Multiple Defendants in Superior Court Criminal Cases Filed

	1964-65 Sample			1968 Sample		
	State	Los Angeles county	Other counties	State	Los Angeles county	Other counties
cases	5,440	2,516	2,924	11,005	4,667	6,338
defendants	6,611	2,969	3,642	13,449	5,671	7,778
of defendants 100 cases	122	118	125	122	122	123
1 defendant	4,565			9,163		
2 "	677			1,425		
3 "	139			296		
4 "	36			84		
5 "	15			25		
6 "	3			7		
7 "	1			1		
8 "	1			2		
9 "	2					
10 "	1			1		
11 "						
12 "				1		

of 1964-65 cases were Los Angeles, San Bernardino, San Diego, Santa Barbara, , San Francisco, Santa Clara, Contra Costa, San Mateo, Fresno, and Monterey counties

of 1968 cases included the above counties plus 12 other scattered counties with populations.

Bureau of Criminal Statistics
May 1, 1969